

LUKE W. COLE (SBN 145505)
luke@igc.org

BRENT NEWELL (SBN 210312)
brent@igc.org

CENTER ON RACE, POVERTY &
THE ENVIRONMENT

47 Kearny Street, Suite 804
San Francisco, CA 94108

Telephone: (415) 346-4179
Facsimile: (415) 346-8723

MATTHEW F. PAWA (*Pro hac vice*)
mp@pawalaw.com

LAW OFFICES OF MATTHEW F. PAWA, P.C.

1280 Centre Street, Suite 230
Newton Centre, MA 02459

Telephone: (617) 641-9550
Facsimile: (617) 641-9551

Attorneys for Plaintiffs
NATIVE VILLAGE OF KIVALINA and CITY OF
KIVALINA

RONALD L. OLSON (SBN 44597)
Ronald.Olson@mto.com

DANIEL P. COLLINS (SBN 139164)
Daniel.Collins@mto.com

MUNGER, TOLLES & OLSON LLP
355 South Grand Avenue, 35th Floor

Los Angeles, CA 90071-1560
Telephone: (213) 683-9100

Facsimile: (213) 687-3702

Attorneys for Defendant
SHELL OIL COMPANY

[*Counsel Listing Continued on Next Three Pages*]

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

NATIVE VILLAGE OF KIVALINA and CITY
OF KIVALINA,

Plaintiffs,

vs.

EXXON MOBIL CORPORATION, *et al.*,

Defendants.

CASE NO. C 08-01138 SBA

**STIPULATION RE: CASE
MANAGEMENT CONFERENCE**

[Proposed Order Lodged Separately]

1 HEATHER KENDALL MILLER (*Pro hac vice*)
 2 kendall@narf.org
 3 NATIVE AMERICAN RIGHTS FUND
 4 420 L Street, Suite 505
 5 Anchorage, AK 99515
 6 907-276-0680
 7 Fax: 907-276-2466

8 STEVE W. BERMAN (*Pro hac vice*)
 9 steve@hbsslw.com
 10 HAGENS BERMAN SOBOL SHAPIRO LLP
 11 1301 Fifth Avenue, Suite 2900
 12 Seattle, WA 98101
 13 Telephone: (206) 623-7292
 14 Facsimile: (206)623-0594

15 REED R. KATHREIN (SBN 139304)
 16 Email: reed@hbsslw.com
 17 HAGENS BERMAN SOBOL SHAPIRO LLP
 18 715 Hearst Avenue, Suite 202
 19 Berkeley, CA 94710
 20 (510) 725-3000
 21 Fax: (510) 725-3001

22 GARY E. MASON (*Pro hac vice*)
 23 Email: gmason@masonlawdc.com
 24 THE MASON LAW FIRM, LLP
 25 1225 19th Street, NW
 26 Suite 500
 27 Washington, DC 20036
 28 202-429-2290
 Fax: 202-429-2294

Attorneys for Plaintiffs NATIVE VILLAGE OF KIVALINA and CITY OF KIVALINA

17 MATTHEW HEARTNEY (SBN 123516)
 18 Matthew.Heartney@aporter.com
 19 ARNOLD & PORTER LLP
 20 777 S. Figueroa Street, 44th Floor
 21 Los Angeles, CA 90017-5844
 22 Telephone: (213) 243-4150
 23 Facsimile: (213) 243-4199

24 PHILIP H. CURTIS (*Pro hac vice* pending)
 25 Philip.Curtis@aporter.com
 26 MICHAEL B. GERRARD (*Pro hac vice* pending)
 27 Michael.Gerrard@aporter.com
 28 ARNOLD & PORTER LLP
 399 Park Avenue
 New York, New York 10022
 Telephone: (212) 715-1000
 Facsimile: (212) 715-1399

Attorneys for Defendants BP AMERICA, INC.,
 AND BP PRODUCTS NORTH AMERICA, INC.

DENNIS J. REICH (*Pro hac vice*)
 Email: dreich@reichandbinstock.com
 REICH & BINSTOCK, LLP
 4265 San Felipe Blvd., Suite 1000
 Houston, TX 77027
 713-622-7271
 Fax: 713-623-8724

CHRISTOPHER A. SEEGER (*Pro hac vice*)
 Email: cseeger@seegerweiss.com
 STEPHEN A. WEISS (*Pro hac vice*)
 Email: sweiss@seegerweiss.com
 SEEGER WEISS LLP
 One William Street
 New York, NY 10004
 212-584-0700
 Fax: 212-584-0799

STEPHEN D. SUSMAN (*Pro hac vice*)
 Email: ssusman@susmangodfrey.com
 SUSMAN GODFREY L.L.P.
 1000 Louisiana Street
 Suite 5100
 Houston, TX 77002
 713-651-9366
 Fax: 713-654-6666

SAMUEL R. MILLER (SBN 66871)
 srmler@sidley.com
 SIDLEY AUSTIN LLP
 555 California Street
 San Francisco, CA 94104
 Telephone: (415) 772-1200
 Facsimile : (415) 772-7400

DAVID T. BUENTE, JR. (*Pro hac vice*)
 dbuente@sidley.com
 JOSEPH R. GUERRA (*Pro hac vice*)
 jguerra@sidley.com
 SIDLEY AUSTIN LLP
 1501 K Street, N.W.
 Washington, D.C. 20005
 Telephone: (202) 736-8000
 Facsimile: (202) 736-8711

Attorneys for Defendants AMERICAN
 ELECTRIC POWER COMPANY,
 AMERICAN ELECTRIC POWER
 SERVICE CORP., AND DUKE ENERGY
 CORP.

1 TRACIE J. RENFROE (*Pro hac vice*)
trenfro@kslaw.com
2 JONATHAN L. MARSH (*Pro hac vice*)
jmarsh@kslaw.com
3 ROBERT MEADOWS (*Pro hac vice*)
rmeadows@kslaw.com
4 KING & SPALDING LLP
1100 Louisiana Street, Suite 4000
5 Houston, TX 77002-5213
Telephone: (713) 751-3200
6 Facsimile: (713) 751-3290

7 LISA KOBIALKA (SBN 191404)
lkobialka@kslaw.com
8 KING & SPALDING LLP
1000 Bridge parkway, Suite 100
9 Redwood City, CA 94065
Telephone: (650) 590-0700
10 Facsimile: (650) 590-1900
11 Attorneys for Defendants CHEVRON
CORPORATION and CHEVRON U.S.A. INC.

12 JOHN F. DAUM (SBN 52313)
jdaum@omm.com
13 JONATHAN D. HACKER (*Pro hac vice*)
jhacker@omm.com
14 O'MELVENY & MYERS LLP
400 South Hope Street
15 Los Angeles, CA 90071-2899
Telephone: (213) 430-6111
16 Facsimile: (213) 430-6407

17 Attorneys for Defendant
EXXON MOBIL CORPORATION

18 JEFFREY A. LAMKEN (SBN 154217)
jeffrey.lamken@bakerbotts.com
19 JEREMY LEVIN (SBN 210577)
jeremy.levin@bakerbotts.com
20 BAKER BOTTS LLP
The Warner
21 1299 Pennsylvania Ave., N.W.
Washington, DC 20004-2400
22 Telephone: (202) 639-7700
23 Facsimile: (202) 639-7890
24 Attorneys for Defendants
DYNEGY HOLDINGS, INC., NRG ENERGY,
INC. and RELIANT ENERGY, INC.

STUART A. C. DRAKE (*Pro hac vice*)
sdrake@kirkland.com
ANDREW CLUBOK (*Pro hac vice*)
aclubok@kirkland.com
SUSAN E. ENGEL (*Pro hac vice*)
seengel@kirkland.com
KIRKLAND & ELLIS LLP
655 Fifteenth Street, N.W.
Washington, D.C. 20005
Telephone: (202) 879-5173
Facsimile: (202) 879-5200

ELIZABETH DEELEY (SBN 230798)
edeeley@kirkland.com
KIRKLAND & ELLIS LLP
555 California Street
San Francisco, CA 94104
Telephone: (415) 439-1861
Facsimile: (415) 439-1500

Attorneys for Defendant
CONOCOPHILLIPS COMPANY

JEROME C. ROTH (SBN 159483)
Jerome.Roth@mto.com
MUNGER, TOLLES & OLSON LLP
560 Mission Street
San Francisco, CA 94105-2907
Telephone: (415) 512-4000
Facsimile: (415) 512-4077

Attorneys for Defendant
SHELL OIL COMPANY

RICHARD K. WELSH (SBN 208825)
welshr@gtlaw.com
SCOTT BERTZYK (SBN 116449)
bertzyks@gtlaw.com
FELIX LEBRON (SBN 232984)
lebronf@gtlaw.com
KAMRAN SALOUR (SBN 247983)
salourk@gtlaw.com
GREENBERG TRAURIG LLP
2450 Colorado Avenue, Suite 400E
Santa Monica, CA 90404
Telephone: (310) 586-7700
Facsimile: (310) 586-7800

Attorneys for Defendant The AES
CORPORATION

1 BELYNDA B. RECK (SBN 163561)
breck@hunton.com
2 HUNTON & WILLIAMS LLP
550 South Hope Street, Suite 2000
3 Los Angeles, CA 90071-2627
Telephone: (213) 532-2000
4 Facsimile: (213) 532-2020

5 F. WILLIAM BROWNELL (*Pro hac vice*)
bbrownell@hunton.com
6 NORMAN W. FICHTHORN (*Pro hac vice*)
nfichthorn@hunton.com
7 ALLISON D. WOOD (*Pro hac vice*)
awood@hunton.com
8 HUNTON & WILLIAMS LLP
1900 K Street, N.W.
9 Washington, D.C. 20006-1109
Telephone: (202) 955-1500
10 Facsimile: (202) 778-2201

11 SHAWN PATRICK REGAN (*Pro hac vice*)
sregan@hunton.com
12 HUNTON & WILLIAMS LLP
200 Park Avenue
13 New York, NY 10166-0136
Telephone: (212) 309-1000
14 Facsimile: (212) 309-1100

15 Attorneys for Defendants DTE ENERGY
COMPANY, EDISON INTERNATIONAL,
16 MIDAMERICAN ENERGY HOLDINGS
COMPANY, PINNACLE WEST CAPITAL
CORP., AND THE SOUTHERN COMPANY

17 KATHLEEN TAYLOR SOOY (*Pro hac vice*)
ksooy@crowell.com
18 SCOTT L. WINKELMAN (*Pro hac vice*)
swinkelman@crowell.com
19 TRACY A. ROMAN (*Pro hac vice*)
troman@crowell.com
20 CROWELL & MORING LLP
1001 Pennsylvania Ave., N.W.
21 Washington, D.C. 20004-2595
Telephone: 202-624-2500
22 Facsimile: 202-628-5116

23 STEVEN P. RICE (SBN 94321)
srice@crowell.com
24 CROWELL & MORING LLP
3 Park Plaza
25 Irvine, CA 92614
Telephone: 949-798-1310
26 Facsimile: 949-263-8414

27 Attorneys for Defendant PEABODY ENERGY
CORPORATION
28

THOMAS A. RECTOR (SBN 199173)
tarector@jonesday.com
JONES DAY
555 California Street, 26th Floor
San Francisco, CA 94104
Telephone: 415-626-3939
Facsimile: 415-875-5700

THOMAS E. FENNELL (*Pro hac vice*)
tefennell@jonesday.com
MICHAEL L. RICE (*Pro hac vice*)
mlrice@jonesday.com
JONES DAY
2727 N. Harwood Street
Dallas, TX 75201
Telephone: 214-220-3939
Facsimile: 214-969-5100

KEVIN P. HOLEWINSKI (*Pro hac vice*)
kpholewinski@jonesday.com
JONES DAY
41 Louisiana Avenue, N.W.
Washington, D.C. 20001
Telephone: 202-879-3939
Facsimile: 202-626-1700

Attorneys for Defendant XCEL ENERGY
INC.

ROBERT B. PRINGLE (SBN 051365)
rbpringle@thelen.com
LAURA A. GUILLEN (SBN 248874)
laguillen@thelen.com
THELEN REID BROWN RAYSMAN
& STEINER LLP
101 Second Street, Suite 1800
San Francisco, CA 94105
Telephone: (415) 371-1200
Facsimile: (415) 371-1211

KEVIN A. GAYNOR (*Pro hac vice*)
kgaynor@velaw.com
BENJAMIN S. LIPPARD (*Pro hac vice*)
blippard@velaw.com
VINSON & ELKINS LLP
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-1008
Telephone: (202) 639-6500
Facsimile: (202) 639-6604

Attorneys for Defendant MIRANT CORP.

1 WHEREAS, on February 26, 2008, Plaintiffs Native Village of Kivalina and City of
2 Kivalina ("Plaintiffs") filed the Complaint in this action;

3 WHEREAS, on February 26, 2008, pursuant to Fed. R. Civ. P. 26 and Local R. 16-2, the
4 Court issued an Order Setting Initial Case Management Conference and ADR Deadlines
5 ("February 26, 2008 Order");

6 WHEREAS, on March 19, 2008, Defendants ExxonMobil Corporation; BP America, Inc.;
7 BP Products North America, Inc.; Chevron Corporation; Chevron U.S.A., Inc.; ConocoPhillips
8 Company; Shell Oil Company; AES Corporation; American Electric Power Company, Inc.;
9 American Electric Power Service Corporation; Duke Energy Corporation; DTE Energy
10 Company; Edison International; MidAmerican Energy Holdings Company; Pinnacle West Capital
11 Corporation; The Southern Company; Dynegy Holdings, Inc.; NRG Energy; Reliant Energy, Inc.;
12 Mirant Corporation; Peabody Energy Corporation; and Xcel Energy Inc. ("Defendants") and
13 Plaintiffs filed a stipulation pursuant to Local R. 6-1(a) extending the Defendants' time to respond
14 to the Complaint until June 30, 2008;

15 WHEREAS, Defendants intend to file one or more motions to dismiss the Complaint
16 pursuant to Fed. R. Civ. P. 12(b);

17 WHEREAS, Defendants and Plaintiffs will attempt to agree on a briefing schedule and
18 format for such motions, and will submit their agreements or proposals to the Court for approval;

19 WHEREAS, in light of the legal issues that will be raised by such motions, the parties
20 agree that, with respect to each of the Defendants, the Rule 26(f) conference and Case
21 Management Conference in this matter should be deferred until after the Court has issued a ruling
22 on all motions under Fed. R. Civ. P. 12 with respect to such Defendant; and

23 WHEREAS, Plaintiffs and Defendants have discussed the options for Alternative Dispute
24 Resolution ("ADR") set forth in this Court's ADR Local Rules, and Plaintiffs and Defendants
25 agree that this case is not suited for court-sponsored Alternative Dispute Resolution process at
26 this time;

27 NOW THEREFORE, Plaintiffs and Defendants, through their undersigned counsel,
28 hereby stipulate as follows:

1 1. All dates established in the February 26, 2008 Order should be vacated.

2 2. The Initial Case Management Conference provided for by Local R. 16-2, all
3 disclosures by both sides pursuant to Fed. R. Civ. P. 26(a), and the ADR Certifications provided
4 for by Local R. 16-8 should be deferred, insofar as they involve any given Defendant, until the
5 Court has issued a ruling upon all motions under Fed. R. Civ. P. 12(b) with respect to such
6 Defendant.

7 3. On or before May 28, 2008, Plaintiffs and Defendants will submit to the Court
8 their proposals for the schedule and format of any motions under Fed. R. Civ. P. 12(b), either in
9 the form of a stipulation under Local R. 7-12 or administrative motions under Local R. 7-11. In
10 contemplation of this submission, and in accordance with this Court's Standing Order,
11 Defendants and Plaintiffs shall meet and confer telephonically, on or before May 16, 2008, to
12 discuss the number, bases, and format of any anticipated motions by any Defendant or
13 Defendants under Fed. R. Civ. P. 12(b).

14 4. Plaintiffs reserve any and all rights they may have to seek leave to conduct
15 discovery in connection with such motions, and Defendants reserve any and all rights they may
16 have to object thereto.

17 5. In the event that a party concludes that the deferral in paragraph 2 should be
18 terminated, and a new schedule set for the matters addressed therein, such party shall so notify in
19 writing all other parties who have appeared in the action. Any party that opposes termination of
20 the deferral in paragraph 2 above must file an appropriate motion under Local R. 7-1 within 35
21 days of receiving such written notice. Pending the Court's resolution of any such motion, the
22 matters described in paragraph 2 above shall continue to be deferred.

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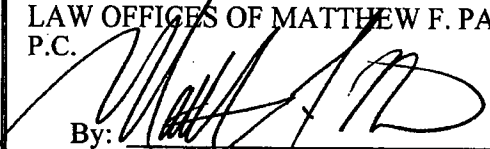
6. This stipulation solely addresses scheduling and is not intended to operate as an admission of any factual allegation or legal conclusion, or as a waiver of any objection, including subject matter jurisdiction, personal jurisdiction, and/or venue.

Dated: May 7, 2008

Respectfully Submitted,

LAW OFFICES OF MATTHEW F. PAWA,
P.C.

MUNGER, TOLLES & OLSON LLP

By: 
Matthew F. Pawa

By: _____
Jerome C. Roth

Attorneys for Plaintiffs
NATIVE VILLAGE OF KIVALINA and
CITY OF KIVALINA

Attorneys for Defendant
SHELL OIL COMPANY

KING & SPALDING LLP

O'MELVENY & MYERS LLP

By: _____
Tracie Renfroe

By: _____
John F. Daum

Attorneys for Defendants
CHEVRON CORPORATION and CHEVRON
U.S.A. INC.

Attorneys for Defendant
EXXON MOBIL CORPORATION

ARNOLD & PORTER LLP

KIRKLAND & ELLIS LLP

By: _____
Matthew Heartney

By: 
Andrew Clubok

Attorneys for Defendants
BP AMERICA, INC., AND BP PRODUCTS
NORTH AMERICA, INC.

Attorneys for Defendant
CONOCOPHILLIPS COMPANY

BAKER BOTTS LLP

GREENBERG TRAURIG LLP

By: _____
Jeffrey A. Lamken

By: _____
Richard K. Welsh

Attorneys for Defendants
DYNEGY HOLDINGS, INC., NRG
ENERGY, AND RELIANT ENERGY, INC.

Attorneys for Defendant
THE AES CORPORATION

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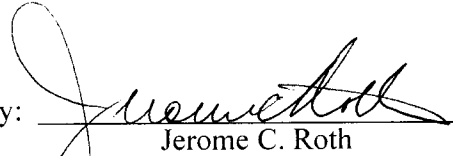
Dated: May __, 2008

Respectfully Submitted,

LAW OFFICES OF MATTHEW F. PAWA,
P.C.

MUNGER, TOLLES & OLSON LLP

By: _____
Matthew F. Pawa

By: 
Jerome C. Roth

Attorneys for Plaintiffs
NATIVE VILLAGE OF KIVALINA and
CITY OF KIVALINA

Attorneys for Defendant
SHELL OIL COMPANY

KING & SPALDING LLP

O'MELVENY & MYERS LLP

By: _____
Tracie Renfroe

By: _____
John F. Daum

Attorneys for Defendants
CHEVRON CORPORATION and CHEVRON
U.S.A. INC.

Attorneys for Defendant
EXXON MOBIL CORPORATION

ARNOLD & PORTER LLP

KIRKLAND & ELLIS LLP

By: _____
Matthew Heartney

By: _____
Andrew Clubok

Attorneys for Defendants
BP AMERICA, INC., AND BP PRODUCTS
NORTH AMERICA, INC.

Attorneys for Defendant
CONOCOPHILLIPS COMPANY

BAKER BOTTS LLP

GREENBERG TRAURIG LLP

By: _____
Jeffrey A. Lamken

By: _____
Richard K. Welsh

Attorneys for Defendants
DYNEGY HOLDINGS, INC., NRG
ENERGY, AND RELIANT ENERGY, INC.

Attorneys for Defendant
THE AES CORPORATION

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Dated: May ___, 2008

Respectfully Submitted,

LAW OFFICES OF MATTHEW F. PAWA,
P.C.

MUNGER, TOLLES & OLSON LLP

By: _____
Matthew F. Pawa

By: _____
Jerome C. Roth

Attorneys for Plaintiffs
NATIVE VILLAGE OF KIVALINA and
CITY OF KIVALINA

Attorneys for Defendant
SHELL OIL COMPANY

KING & SPALDING LLP

O'MELVENY & MYERS LLP

By: 
Tracie Renfro

By: _____
John F. Daum

Attorneys for Defendants
CHEVRON CORPORATION and CHEVRON
U.S.A. INC.

Attorneys for Defendant
EXXON MOBIL CORPORATION

ARNOLD & PORTER LLP

KIRKLAND & ELLIS LLP

By: _____
Matthew Heartney

By: _____
Andrew Clubok

Attorneys for Defendants
BP AMERICA, INC., AND BP PRODUCTS
NORTH AMERICA, INC.

Attorneys for Defendant
CONOCOPHILLIPS COMPANY

BAKER BOTTS LLP

GREENBERG TRAURIG LLP

By: _____
Jeffrey A. Lamken

By: _____
Richard K. Welsh

Attorneys for Defendants
DYNEGY HOLDINGS, INC., NRG
ENERGY, AND RELIANT ENERGY, INC.

Attorneys for Defendant
THE AES CORPORATION

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Dated: May __, 2008

Respectfully Submitted,

LAW OFFICES OF MATTHEW F. PAWA,
P.C.

MUNGER, TOLLES & OLSON LLP

By: _____
Matthew F. Pawa

By: _____
Jerome C. Roth

Attorneys for Plaintiffs
NATIVE VILLAGE OF KIVALINA and
CITY OF KIVALINA

Attorneys for Defendant
SHELL OIL COMPANY

KING & SPALDING LLP

O'MELVENY & MYERS LLP

By: _____
Tracie Renfroe

By: _____
John F. Daum

Attorneys for Defendants
CHEVRON CORPORATION and CHEVRON
U.S.A. INC.

Attorneys for Defendant
EXXON MOBIL CORPORATION

ARNOLD & PORTER LLP

KIRKLAND & ELLIS LLP

By: _____
Matthew Heartney

By: _____
Andrew Clubok

Attorneys for Defendants
BP AMERICA, INC., AND BP PRODUCTS
NORTH AMERICA, INC.

Attorneys for Defendant
CONOCOPHILLIPS COMPANY

BAKER BOTTS LLP

GREENBERG TRAURIG LLP

By: _____
Jeffrey A. Lamken

By: _____
Richard K. Welsh

Attorneys for Defendants
DYNEGY HOLDINGS, INC., NRG
ENERGY, AND RELIANT ENERGY, INC.

Attorneys for Defendant
THE AES CORPORATION

6. This stipulation solely addresses scheduling and is not intended to operate as an admission of any factual allegation or legal conclusion, or as a waiver of any objection, including subject matter jurisdiction, personal jurisdiction, and/or venue.

Dated: May __, 2008

Respectfully Submitted,

LAW OFFICES OF MATTHEW F. PAWA,
P.C.

MUNGER, TOLLES & OLSON LLP

By: _____
Matthew F. Pawa

By: _____
Jerome C. Roth

Attorneys for Plaintiffs
NATIVE VILLAGE OF KIVALINA and
CITY OF KIVALINA

Attorneys for Defendant
SHELL OIL COMPANY

KING & SPALDING LLP

O'MELVENY & MYERS LLP

By: _____
Tracie Renfroe

By: _____
John F. Daum

Attorneys for Defendants
CHEVRON CORPORATION and CHEVRON
U.S.A. INC.

Attorneys for Defendant
EXXON MOBIL CORPORATION

ARNOLD & PORTER LLP

KIRKLAND & ELLIS LLP

By: _____
Matthew Heartney

By: _____
Andrew Clubok

Attorneys for Defendants
BP AMERICA, INC., AND BP PRODUCTS
NORTH AMERICA, INC.

Attorneys for Defendant
CONOCOPHILLIPS COMPANY

BAKER BOTTS LLP

GREENBERG TRAURIG LLP

By: _____
Jeffrey A. Lamken

By: _____
Richard K. Welsh

Attorneys for Defendants
DYNEGY HOLDINGS, INC., NRG
ENERGY, AND RELIANT ENERGY, INC.

Attorneys for Defendant
THE AES CORPORATION

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Dated: May __, 2008

Respectfully Submitted,

LAW OFFICES OF MATTHEW F. PAWA,
P.C.

MUNGER, TOLLES & OLSON LLP

By: _____
Matthew F. Pawa

By: _____
Jerome C. Roth

Attorneys for Plaintiffs
NATIVE VILLAGE OF KIVALINA and
CITY OF KIVALINA

Attorneys for Defendant
SHELL OIL COMPANY

KING & SPALDING LLP

O'MELVENY & MYERS LLP

By: _____
Tracie Renfroe

By: _____
John F. Daum

Attorneys for Defendants
CHEVRON CORPORATION and CHEVRON
U.S.A. INC.

Attorneys for Defendant
EXXON MOBIL CORPORATION

ARNOLD & PORTER LLP

KIRKLAND & ELLIS LLP

By: _____
Matthew Heartney

By: _____
Andrew Clubok

Attorneys for Defendants
BP AMERICA, INC., AND BP PRODUCTS
NORTH AMERICA, INC.

Attorneys for Defendant
CONOCOPHILLIPS COMPANY

BAKER BOTTS LLP

GREENBERG TRAURIG LLP

By: _____
Jeffrey A. Lamken

By: _____
Richard K. Welsh

Attorneys for Defendants
DYNEGY HOLDINGS, INC., NRG
ENERGY, AND RELIANT ENERGY, INC.

Attorneys for Defendant
THE AES CORPORATION

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Dated: May __, 2008

Respectfully Submitted,

LAW OFFICES OF MATTHEW F. PAWA,
P.C.

MUNGER, TOLLES & OLSON LLP

By: _____
Matthew F. Pawa

By: _____
Jerome C. Roth

Attorneys for Plaintiffs
NATIVE VILLAGE OF KIVALINA and
CITY OF KIVALINA

Attorneys for Defendant
SHELL OIL COMPANY

KING & SPALDING LLP

O'MELVENY & MYERS LLP

By: _____
Tracie Renfroe

By: _____
John F. Daum

Attorneys for Defendants
CHEVRON CORPORATION and CHEVRON
U.S.A. INC.

Attorneys for Defendant
EXXON MOBIL CORPORATION

ARNOLD & PORTER LLP

KIRKLAND & ELLIS LLP

By: _____
Matthew Heartney

By: _____
Andrew Clubok

Attorneys for Defendants
BP AMERICA, INC., AND BP PRODUCTS
NORTH AMERICA, INC.

Attorneys for Defendant
CONOCOPHILLIPS COMPANY

BAKER BOTTS LLP

GREENBERG TRAURIG LLP

By: _____
Jeffrey A. Lamken

By:  _____
Richard K. Welsh

Attorneys for Defendants
DYNEGY HOLDINGS, INC., NRG
ENERGY, AND RELIANT ENERGY, INC.

Attorneys for Defendant
THE AES CORPORATION

1 JONES DAY

CROWELL & MORING LLP

2
3 By: Thomas A. Rector by PH
4 Thomas A. Rector

By: _____
Steven P. Rice

5 Attorneys for Defendant
XCEL ENERGY INC.

Attorneys for Defendant
PEABODY ENERGY CORPORATION

6 SIDLEY AUSTIN LLP

HUNTON & WILLIAMS LLP

7
8 By: _____
Samuel R. Miller

By: _____
Shawn Patrick Regan

9 Attorneys for Defendants
10 AMERICAN ELECTRIC POWER
COMPANY, AMERICAN ELECTRIC
11 POWER SERVICE CORPORATION, AND
DUKE ENERGY CORPORATION

Attorneys for Defendants
DTE ENERGY COMPANY, EDISON
INTERNATIONAL, MIDAMERICAN
ENERGY HOLDINGS COMPANY,
PINNACLE WEST CAPITAL CORP., AND
THE SOUTHERN COMPANY

12 THELEN REID BROWN RAYSMAN
13 & STEINER LLP
14 VINSON & ELKINS LLP

15
16 By: _____
Robert B. Pringle

17 Attorneys for Defendant
MIRANT CORPORATION

1 JONES DAY

CROWELL & MORING LLP

2
3 By: _____
Thomas A. Rector

By: 
Steven P. Rice

4 Attorneys for Defendant
5 XCEL ENERGY INC.

Attorneys for Defendant
PEABODY ENERGY CORPORATION

6 SIDLEY AUSTIN LLP

HUNTON & WILLIAMS LLP

7
8 By: _____
Samuel R. Miller

By: _____
Shawn Patrick Regan

9 Attorneys for Defendants
10 AMERICAN ELECTRIC POWER
COMPANY, AMERICAN ELECTRIC
11 POWER SERVICE CORPORATION, AND
DUKE ENERGY CORPORATION

Attorneys for Defendants
DTE ENERGY COMPANY, EDISON
INTERNATIONAL, MIDAMERICAN
ENERGY HOLDINGS COMPANY,
PINNACLE WEST CAPITAL CORP., AND
THE SOUTHERN COMPANY

12 THELEN REID BROWN RAYSMAN
13 & STEINER LLP
14 VINSON & ELKINS LLP

15
16 By: _____
Robert B. Pringle

17 Attorneys for Defendant
MIRANT CORPORATION

1 JONES DAY

CROWELL & MORING LLP

2
3 By: _____
Thomas A. Rector

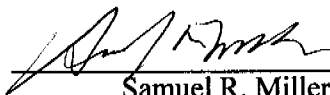
By: _____
Steven P. Rice

4 Attorneys for Defendant
5 XCEL ENERGY INC.

Attorneys for Defendant
PEABODY ENERGY CORPORATION

6 SIDLEY AUSTIN LLP

HUNTON & WILLIAMS LLP

7
8 By:  _____
Samuel R. Miller

By: _____
Shawn Patrick Regan

9 Attorneys for Defendants
10 AMERICAN ELECTRIC POWER
11 COMPANY, AMERICAN ELECTRIC
POWER SERVICE CORPORATION, AND
DUKE ENERGY CORPORATION

Attorneys for Defendants
DTE ENERGY COMPANY, EDISON
INTERNATIONAL, MIDAMERICAN
ENERGY HOLDINGS COMPANY,
PINNACLE WEST CAPITAL CORP., AND
THE SOUTHERN COMPANY

12 THELEN REID BROWN RAYSMAN
13 & STEINER LLP
14 VINSON & ELKINS LLP

15
16 By: _____
Robert B. Pringle

17 Attorneys for Defendant
18 MIRANT CORPORATION

1 JONES DAY

CROWELL & MORING LLP

2

3 By: _____
Thomas A. Rector

By: _____
Steven P. Rice

4 Attorneys for Defendant
5 XCEL ENERGY INC.

Attorneys for Defendant
PEABODY ENERGY CORPORATION

6 SIDLEY AUSTIN LLP

HUNTON & WILLIAMS LLP

7

8 By: _____
Samuel R. Miller

By:  _____
Shawn Patrick Regan

9 Attorneys for Defendants
10 AMERICAN ELECTRIC POWER
11 COMPANY, AMERICAN ELECTRIC
12 POWER SERVICE CORPORATION, AND
13 DUKE ENERGY CORPORATION

Attorneys for Defendants
DTE ENERGY COMPANY, EDISON
INTERNATIONAL, MIDAMERICAN
ENERGY HOLDINGS COMPANY,
PINNACLE WEST CAPITAL CORP., AND
THE SOUTHERN COMPANY

12 THELEN REID BROWN RAYSMAN
13 & STEINER LLP
14 VINSON & ELKINS LLP

15 By: _____
16 Robert B. Pringle

17 Attorneys for Defendant
18 MIRANT CORPORATION

18

19

20

21

22

23

24

25

26

27

28

1 JONES DAY

CROWELL & MORING LLP

2
3 By: _____
Thomas A. Rector

By: _____
Steven P. Rice

4 Attorneys for Defendant
5 XCEL ENERGY INC.

Attorneys for Defendant
PEABODY ENERGY CORPORATION

6 SIDLEY AUSTIN LLP

HUNTON & WILLIAMS LLP

7
8 By: _____
Samuel R. Miller

By: _____
Shawn Patrick Regan

9 Attorneys for Defendants
10 AMERICAN ELECTRIC POWER
11 COMPANY, AMERICAN ELECTRIC
POWER SERVICE CORPORATION, AND
DUKE ENERGY CORPORATION

Attorneys for Defendants
DTE ENERGY COMPANY, EDISON
INTERNATIONAL, MIDAMERICAN
ENERGY HOLDINGS COMPANY,
PINNACLE WEST CAPITAL CORP., AND
THE SOUTHERN COMPANY

12 THELEN REID BROWN RAYSMAN
13 & STEINER LLP
14 VINSON & ELKINS LLP

15 By: 
16 Kevin A. Gaynor

17 Attorneys for Defendant
18 MIRANT CORPORATION
19
20
21
22
23
24
25
26
27
28

LUKE W. COLE (SBN 145505)
luke@igc.org
BRENT NEWELL (SBN 210312)
brent@igc.org
CENTER ON RACE, POVERTY &
THE ENVIRONMENT
47 Kearny Street, Suite 804
San Francisco, CA 94108
Telephone: (415) 346-4179
Facsimile: (415) 346-8723

MATTHEW F. PAWA (*Pro hac vice*)
mp@pawalaw.com
LAW OFFICES OF MATTHEW F. PAWA, P.C.
1280 Centre Street, Suite 230
Newton Centre, MA 02459
Telephone: (617) 641-9550
Facsimile: (617) 641-9551

Attorneys for Plaintiffs
NATIVE VILLAGE OF KIVALINA and CITY OF
KIVALINA

RONALD L. OLSON (SBN 44597)
Ronald.Olson@mto.com
DANIEL P. COLLINS (SBN 139164)
Daniel.Collins@mto.com
MUNGER, TOLLES & OLSON LLP
355 South Grand Avenue, 35th Floor
Los Angeles, CA 90071-1560
Telephone: (213) 683-9100
Facsimile: (213) 687-3702

Attorneys for Defendant
SHELL OIL COMPANY

[Counsel Listing Continued on Next Three Pages]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

NATIVE VILLAGE OF KIVALINA and CITY
OF KIVALINA,

Plaintiffs,

vs.

EXXON MOBIL CORPORATION, *et al.*,

Defendants.

CASE NO. C 08-01138 SBA

**[PROPOSED] ORDER RE: CASE
MANAGEMENT CONFERENCE**

HEATHER KENDALL MILLER (*Pro hac vice*)
kendall@narf.org
NATIVE AMERICAN RIGHTS FUND
420 L Street, Suite 505
Anchorage, AK 99515
907-276-0680
Fax: 907-276-2466

STEVE W. BERMAN (*Pro hac vice*)
steve@hbsslaw.com
HAGENS BERMAN SOBOL SHAPIRO LLP
1301 Fifth Avenue, Suite 2900
Seattle, WA 98101
Telephone: (206) 623-7292
Facsimile: (206)623-0594

REED R. KATHREIN (SBN 139304)
Email: reed@hbsslaw.com
HAGENS BERMAN SOBOL SHAPIRO LLP
715 Hearst Avenue, Suite 202
Berkeley, CA 94710
(510) 725-3000
Fax: (510) 725-3001

GARY E. MASON (*Pro hac vice*)
Email: gmason@masonlawdc.com
THE MASON LAW FIRM, LLP
1225 19th Street, NW
Suite 500
Washington, DC 20036
202-429-2290
Fax: 202-429-2294

Attorneys for Plaintiffs NATIVE VILLAGE OF KIVALINA and CITY OF KIVALINA

MATTHEW HEARTNEY (SBN 123516)
Matthew.Heartney@aporter.com
ARNOLD & PORTER LLP
777 S. Figueroa Street, 44th Floor
Los Angeles, CA 90017-5844
Telephone: (213) 243-4150
Facsimile: (213) 243-4199

PHILIP H. CURTIS (*Pro hac vice* pending)
Philip.Curtis@aporter.com
MICHAEL B. GERRARD (*Pro hac vice* pending)
Michael.Gerrard@aporter.com
ARNOLD & PORTER LLP
399 Park Avenue
New York, New York 10022
Telephone: (212) 715-1000
Facsimile: (212) 715-1399

Attorneys for Defendants BP AMERICA, INC.,
AND BP PRODUCTS NORTH AMERICA, INC.

DENNIS J. REICH (*Pro hac vice*)
Email: dreich@reichandbinstock.com
REICH & BINSTOCK, LLP
4265 San Felipe Blvd., Suite 1000
Houston, TX 77027
713-622-7271
Fax: 713-623-8724

CHRISTOPHER A. SEEGER (*Pro hac vice*)
Email: cseeger@seegerweiss.com
STEPHEN A. WEISS (*Pro hac vice*)
Email: sweiss@seegerweiss.com
SEEGER WEISS LLP
One William Street
New York, NY 10004
212-584-0700
Fax: 212-584-0799

STEPHEN D. SUSMAN (*Pro hac vice*)
Email: ssusman@susmangodfrey.com
SUSMAN GODFREY L.L.P.
1000 Louisiana Street
Suite 5100
Houston, TX 77002
713-651-9366
Fax: 713-654-6666

SAMUEL R. MILLER (SBN 66871)
srmler@sidley.com
SIDLEY AUSTIN LLP
555 California Street
San Francisco, CA 94104
Telephone: (415) 772-1200
Facsimile : (415) 772-7400

DAVID T. BUENTE, JR. (*Pro hac vice*)
dbuente@sidley.com
JOSEPH R. GUERRA (*Pro hac vice*)
jguerra@sidley.com
SIDLEY AUSTIN LLP
1501 K Street, N.W.
Washington, D.C. 20005
Telephone: (202) 736-8000
Facsimile: (202) 736-8711

Attorneys for Defendants AMERICAN
ELECTRIC POWER COMPANY,
AMERICAN ELECTRIC POWER
SERVICE CORP., AND DUKE ENERGY
CORP.

1 TRACIE J. RENFROE (*Pro hac vice*)
trenfro@kslaw.com
2 JONATHAN L. MARSH (*Pro hac vice*)
jmarsh@kslaw.com
3 ROBERT MEADOWS (*Pro hac vice*)
rmeadows@kslaw.com
4 KING & SPALDING LLP
1100 Louisiana Street, Suite 4000
5 Houston, TX 77002-5213
Telephone: (713) 751-3200
6 Facsimile: (713) 751-3290

7 LISA KOBIALKA (SBN 191404)
lkobialka@kslaw.com
8 KING & SPALDING LLP
1000 Bridge parkway, Suite 100
9 Redwood City, CA 94065
Telephone: (650) 590-0700
10 Facsimile: (650) 590-1900

11 Attorneys for Defendants
CHEVRON CORPORATION and
CHEVRON U.S.A. INC.

12 JOHN F. DAUM (SBN 52313)
jdaum@omm.com
13 JONATHAN D. HACKER (*Pro hac vice*)
jhacker@omm.com
14 O'MELVENY & MYERS LLP
400 South Hope Street
15 Los Angeles, CA 90071-2899
Telephone: (213) 430-6111
16 Facsimile: (213) 430-6407

17 Attorneys for Defendant
18 EXXON MOBIL CORPORATION

19 JEFFREY A. LAMKEN (SBN 154217)
jeffrey.lamken@bakerbotts.com
20 JEREMY LEVIN (SBN 210577)
jeremy.levin@bakerbotts.com
21 BAKER BOTTS LLP
The Warner
22 1299 Pennsylvania Ave., N.W.
Washington, DC 20004-2400
23 Telephone: (202) 639-7700
Facsimile: (202) 639-7890
24 Attorneys for Defendants
DYNEGY HOLDINGS, INC., NRG ENERGY,
25 INC. and RELIANT ENERGY, INC.

STUART A. C. DRAKE (*Pro hac vice*)
sdrake@kirkland.com
ANDREW CLUBOK (*Pro hac vice*)
aclubok@kirkland.com
SUSAN E. ENGEL (*Pro hac vice*)
seengel@kirkland.com
KIRKLAND & ELLIS LLP
655 Fifteenth Street, N.W.
Washington, D.C. 20005
Telephone: (202) 879-5173
Facsimile: (202) 879-5200

ELIZABETH DEELEY (SBN 230798)
edeeley@kirkland.com
KIRKLAND & ELLIS LLP
555 California Street
San Francisco, CA 94104
Telephone: (415) 439-1861
Facsimile: (415) 439-1500

Attorneys for Defendant
CONOCOPHILLIPS COMPANY

JEROME C. ROTH (SBN 159483)
Jerome.Roth@mto.com
MUNGER, TOLLES & OLSON LLP
560 Mission Street
San Francisco, CA 94105-2907
Telephone: (415) 512-4000
Facsimile: (415) 512-4077

Attorneys for Defendant
SHELL OIL COMPANY

RICHARD K. WELSH (SBN 208825)
welshr@gtlaw.com
SCOTT BERTZYK (SBN 116449)
bertzyks@gtlaw.com
FELIX LEBRON (SBN 232984)
lebronf@gtlaw.com
KAMRAN SALOUR (SBN 247983)
salourk@gtlaw.com
GREENBERG TRAURIG LLP
2450 Colorado Avenue, Suite 400E
Santa Monica, CA 90404
Telephone: (310) 586-7700
Facsimile: (310) 586-7800

Attorneys for Defendant The AES
CORPORATION

BELYNDA B. RECK (SBN 163561)
breck@hunton.com
HUNTON & WILLIAMS LLP
550 South Hope Street, Suite 2000
Los Angeles, CA 90071-2627
Telephone: (213) 532-2000
Facsimile: (213) 532-2020

F. WILLIAM BROWNELL (*Pro hac vice*)
bbrownell@hunton.com
NORMAN W. FICHTHORN (*Pro hac vice*)
nfichthorn@hunton.com
ALLISON D. WOOD (*Pro hac vice*)
awood@hunton.com
HUNTON & WILLIAMS LLP
1900 K Street, N.W.
Washington, D.C. 20006-1109
Telephone: (202) 955-1500
Facsimile: (202) 778-2201

SHAWN PATRICK REGAN (*Pro hac vice*)
sregan@hunton.com
HUNTON & WILLIAMS LLP
200 Park Avenue
New York, NY 10166-0136
Telephone: (212) 309-1000
Facsimile: (212) 309-1100

Attorneys for Defendants DTE ENERGY
COMPANY, EDISON INTERNATIONAL,
MIDAMERICAN ENERGY HOLDINGS
COMPANY, PINNACLE WEST CAPITAL
CORP., AND THE SOUTHERN COMPANY

KATHLEEN TAYLOR SOOY (*Pro hac vice*)
ksooy@crowell.com
SCOTT L. WINKELMAN (*Pro hac vice*)
swinkelman@crowell.com
TRACY A. ROMAN (*Pro hac vice*)
troman@crowell.com
CROWELL & MORING LLP
1001 Pennsylvania Ave., N.W.
Washington, D.C. 20004-2595
Telephone: 202-624-2500
Facsimile: 202-628-5116

STEVEN P. RICE (SBN 94321)
srice@crowell.com
CROWELL & MORING LLP
3 Park Plaza
Irvine, CA 92614
Telephone: 949-798-1310
Facsimile: 949-263-8414

Attorneys for Defendant PEABODY ENERGY
CORPORATION

THOMAS A. RECTOR (SBN 199173)
tarector@jonesday.com
JONES DAY
555 California Street, 26th Floor
San Francisco, CA 94104
Telephone: 415-626-3939
Facsimile: 415-875-5700

THOMAS E. FENNELL (*Pro hac vice*)
tefennell@jonesday.com
MICHAEL L. RICE (*Pro hac vice*)
mlrice@jonesday.com
JONES DAY
2727 N. Harwood Street
Dallas, TX 75201
Telephone: 214-220-3939
Facsimile: 214-969-5100

KEVIN P. HOLEWINSKI (*Pro hac vice*)
kpholewinski@jonesday.com
JONES DAY
41 Louisiana Avenue, N.W.
Washington, D.C. 20001
Telephone: 202-879-3939
Facsimile: 202-626-1700

Attorneys for Defendant XCEL ENERGY
INC.

ROBERT B. PRINGLE (SBN 051365)
rbpringle@thelen.com
LAURA A. GUILLEN (SBN 248874)
laguillen@thelen.com
THELEN REID BROWN RAYSMAN
& STEINER LLP
101 Second Street, Suite 1800
San Francisco, CA 94105
Telephone: (415) 371-1200
Facsimile: (415) 371-1211

KEVIN A. GAYNOR (*Pro hac vice*)
kgaynor@velaw.com
BENJAMIN S. LIPPARD (*Pro hac vice*)
blippard@velaw.com
VINSON & ELKINS LLP
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-1008
Telephone: (202) 639-6500
Facsimile: (202) 639-6604

Attorneys for Defendant MIRANT CORP.

1 Pursuant to the Stipulation of the Plaintiffs and of Defendants ExxonMobil Corporation;
2 BP America, Inc.; BP Products North America, Inc.; Chevron Corporation; Chevron U.S.A., Inc.;
3 ConocoPhillips Company; Shell Oil Company; The AES Corporation; American Electric Power
4 Company, Inc.; American Electric Power Service Corporation; Duke Energy Corporation; DTE
5 Energy Company; Edison International; MidAmerican Energy Holdings Company; Pinnacle West
6 Capital Corporation; The Southern Company; Dynegy Holdings, Inc.; NRG Energy; Reliant
7 Energy, Inc.; Mirant Corporation; Peabody Energy Corporation; and Xcel Energy Inc.
8 (“Defendants”), and FOR GOOD CAUSE SHOWN, IT IS HEREBY ORDERED:

9 1. All dates established in the “Order Setting Initial Case Management Conference
10 and ADR Deadlines,” filed in this case on February 26, 2008, are vacated.

11 2. The Initial Case Management Conference provided for by Local R. 16-2, all
12 disclosures by both sides pursuant to Fed. R. Civ. P. 26(a), and the ADR Certifications provided
13 for by Local R. 16-8 should be deferred, insofar as they involve any given Defendant, until the
14 Court has issued a ruling upon all motions under Fed. R. Civ. P. 12(b) with respect to such
15 Defendant.

16 3. On or before May 28, 2008, Plaintiffs and Defendants will submit to the Court
17 their proposals for the schedule and format of any motions under Fed. R. Civ. P. 12(b), either in
18 the form of a stipulation under Local R. 7-12 or administrative motions under Local R. 7-11. In
19 contemplation of this submission, and in accordance with this Court’s Standing Order,
20 Defendants and Plaintiffs shall meet and confer telephonically, on or before May 16, 2008, to
21 discuss the number, bases, and format of any anticipated motions by any Defendant or
22 Defendants under Fed. R. Civ. P. 12(b).

23 4. In the event that a party concludes that the deferral in paragraph 2 should be
24 terminated, and a new schedule set for the matters addressed therein, such party shall so notify in
25 writing all other parties who have appeared in the action. Any party that opposes termination of
26 the deferral in paragraph 2 above must file an appropriate motion under Local R. 7-1 within 35

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1 days of receiving such written notice. Pending the Court's resolution of any such motion, the
2 matters described in paragraph 2 above shall continue to be deferred.

3 DATED: May _____, 2008

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5 By: _____
6 The Hon. Sandra B. Armstrong
7 United States District Judge
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